

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 03-40266 CBS

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Plaintiff

v.

TOWN OF NORTH BROOKFIELD,

Defendant

AFFIDAVIT OF LEE DORE IN SUPPORT OF
DEFENDANT'S REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANT'S LOCAL
RULE 56.1 STATEMENT OF MATERIAL FACTS NOT IN DISPUTE AND
STATEMENT OF ADDITIONAL FACTS IN OPPOSITION TO DEFENDANT'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Lee Dore, on oath, depose and state the following:

1. I am employed by Dore & Whittier, Inc. ("D&W"), the project architect on the North Brookfield Junior/Senior High School construction project ("Project") that is the subject of this litigation, and I served as the architect's project manager.
2. In connection with the Project, I attended a May 21, 2003 meeting with representatives of the Town, E.J. Sciaba Contracting Co., Inc. ("Sciaba"), American Manufacturers Mutual Insurance Company ("AMMIC") and Dore & Whittier.
3. At the meeting, the Town was never requested to notify AMMIC prior to making payments to Sciaba on the Project.

4. To the best of my memory, at the meeting, no one from the Town or D&W represented that payments would be withheld from Sciaba until Sciaba submitted a revised Project schedule.
5. At no time during the meeting did AMMIC's representatives request the Town to withhold payments from Sciaba or make payments to AMMIC, as performance bond surety, on Sciaba's behalf.
6. At no time during the meeting did AMMIC's representatives ever express any concern that the Town should not make payments to Sciaba for work performed on the Project.
7. At the meeting, Sciaba's representatives stated that a new project manager, Matt Daly, had been assigned to the Project on a full-time basis.
8. At the meeting, the Town was assured by Sciaba's representatives that Sciaba could complete the Project and was informed by AMMIC's representatives that AMMIC did not foresee Sciaba's default on the Project as a possibility.
9. The meeting minutes attached hereto as Exhibit A accurately summarize the discussion held at the May 21, 2003 meeting.
10. Sciaba submitted to D&W lien waivers from its subcontractors for its payment application No. 12 prior to the May 21, 2003 meeting.
11. The Town had processed Sciaba's payment application Nos. 12 and 13B and included the payments in one single check. However, because Sciaba had not provided lien waivers for payment application No. 13B, D&W advised the Town to issue two separate checks, one for payment application No. 12 and one for No. 13B.

12. The check for payment application No. 12 became available after the May 21, 2003 meeting, and was forwarded by the Town to Chris Conway of D&W, who hand delivered it to a representative of Sciaba.
13. D&W received the lien waivers applicable to payment application No. 13B on or about May 27, 2003, at which time the check for payment application No. 13B was delivered to Sciaba.
14. During the Project, D&W and the Town received lien waivers for Sciaba's subcontractors when Sciaba was requested to submit lien waivers.
15. In my experience as an architect's project manager, discrepancies between the amounts paid to a general contractor on behalf of a subcontractor's work and the amounts included in a lien waiver from the subcontractor are often due to disputes or arrangements between the general contractor and subcontractor to which the project architect and the owner are not privy.
16. For example, on the Project, some time after it arose, D&W learned that there was a dispute between Sciaba and its subcontractor, Millis Plumbing Co., Inc. relative to the cost of a gas pipe to provide temporary heat to the building site. A copy of notes taken by Harald Aksdal of D&W relative to Sciaba's payment application No. 13B is attached hereto as Exhibit B.
17. In my experience as an architect's project manager, the purpose for requiring a general contractor to submit lien waivers from its subcontractors is not to verify that the amounts set forth in the lien waivers exactly equal the amounts paid to the general contractor on account of a subcontractor's work, but rather to monitor that the amounts paid to the general contractor and amounts

requisitioned by the general contractor for a particular subtrade work are generally consistent, and to verify that subcontractors are receiving payments.

18. On each payment application, Sciaba certified:

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which the previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

A copy of the first page of Sciaba's payment application No. 13B is attached hereto as Exhibit C.
19. The project referenced in paragraph 22 of AMMIC's Response to Defendant's Local Rule 56.1 Statement of Material Facts Not in Dispute was the Clinton Elementary School Project. In the Clinton project, the Town did not withhold liquidated damages until after the date for substantial completion had passed.
20. Sciaba voluntarily defaulted on the Project on or about May 30, 2003, which was prior to the dates for substantial completion of the building, August 15, 2003, and the Phase 4 work, December 15, 2003.
21. Generally, a general contractor on a construction project requisitions for general conditions based on monthly installments that are not related to the amount of work that is performed on a monthly basis, but rather based on the total amount of the contract price allocated to general conditions divided by the number of months in the expected period of construction.
22. During the Project, D&W used the following procedure in processing payment applications submitted by Sciaba: if Sciaba included a line item in its monthly payment application for "Project schedule" and the monthly

Project schedule was not submitted, the payment application was reduced by the amount sought by Sciaba for the Project schedule line item.

23. Change Order No. 3 to the contract between the Town and Sciaba for the Project indicates that the substantial completion date for the Project was extended by 28 days. The Project had two substantial completion dates: July 15, 2003 for the building and November 17, 2003 for the Phase 4 work. The intent of Change Order No. 3 was to extend both substantial completion dates by 28 days, that is, to August 15, 2003 for the building and December 15, 2003 for the Phase 4 work. The document includes only the December 15, 2003 date because that was the last applicable date.
24. The inclusion of only the last substantial completion date on Change Order No. 3 is consistent with the practice employed on the Project for Change Order Nos. 1 and 2, which did not include a change to the substantial completion dates but only include the second substantial completion date of November 17, 2003 for the Phase 4 work. Copies of Change Order Nos. 1 and are attached hereto as Exhibit D.
25. A true and accurate copy of a memorandum from Harald Aksdal of D&W to Robert O'Neill, Superintendent of Schools, dated May 6, 2003 regarding payment application No. 12 is attached hereto as Exhibit E.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 2nd DAY
OF FEBRUARY, 2006.

/s/ Lee P. Dore
Lee P. Dore

272828/NBRO/0019

EXHIBIT A



1795 WILLISTON RD, STE. 5 • S. BURLINGTON, VT 05403
Phone (802) 863-1428 • Fax (802) 863-6955

1400 HANCOCK STREET, QUINCY, MA 02169
Phone: (617) 471-2897 • Fax: (617) 471-2516

29 WATER STREET, SUITE 304 • NEWBURYPORT, MA 01950
Phone: (978) 499-2999 • Fax: (978) 499-2944

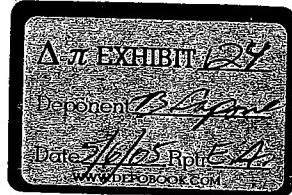
MEETING NOTES

DATE OF MEETING: 21 May 2003

PROJECT: North Brookfield Jr/Sr High School
D&W Project No. 00-404A

SUBJECT: Status and Progress of Construction Meeting held in High School Library at 2:50p.m.

ATTENDING:	Ed O'Malley	Principal
	Robert O'Neill	Superintendent of Schools
	Don Gillette	Building Committee, Co-Chair
	Edward Wilkins, Jr.	Building Committee
	Greg Kline	Building Committee
	Larry Hasensus	Selectman
	Michael P. Sheehan	E.J. Sciaba
	Matt Daly	E.J. Sciaba
	Mike Haynes	E.J. Sciaba
	Bert Capone	Attorney for E.J. Sciaba
	Ken Walton	Attorney for Dore and Whittier, Inc.
	Thomas W. McEnaney	Kopelman and Paige
	Deborah Griffin	Holland and Knight, Attorney for Surety
	Richard Anastasio	Greyhawk/Kemper Surety
	Stephen Beatty	Kemper Surety
	Tom Barden	Dore and Whittier, Inc.
	Chris Conway	Dore and Whittier, Inc.
	Lee P. Dore	Dore and Whittier, Inc.
	R. John Dore	Dore and Whittier, Inc.
	Harald Aksdal	Dore and Whittier, Inc.



1. Tom McEnaney opened the meeting with an introduction. All present introduced themselves. Basically, the meeting was held to address Owner concerns with the progress of the construction and to, generally and specifically, address items in the letter from the Owner to Kemper Surety dated 23 April 2003.

Status and Progress of Construction Meeting held in High School Library
Held on 21 May 2003

2. Neither the Surety nor EJS attorney had received a copy of the letter. Copies were made and distributed and time was allowed for EJS representatives and Surety representatives to review the letter.
3. It was noted that Ed Sciaba was unable to attend this meeting.
4. Owner questions presented to EJS: What is EJS going to do to bring this project back on schedule? When will it be completed? Will staffing be changed and/or increased? Will monies owed to subcontractors and suppliers be paid?
 - a. Staffing change has taken place and a new project manager has been assigned to this project.
 - b. A new schedule and recovery is being worked on, however no firm date as to when the schedule will be complete. However, a firm schedule will be provided prior to the next requisition.
 - c. EJS noted the major problem with this job has been cash flow and related to that has been three other joint venture projects, which consumed EJS cash, and are now concluded.
5. Owner question to the Surety: Is Kemper Surety stepping in to assist EJS?
 - a. EJS is putting together a review and report of the company's financial status for the Surety's review. The report is due to the Surety this Friday (23 May 2003). Surety will review report to determine what and if assistance is required.
 - b. Owner noted concern that letter from them to Kemper is a month old, why such a late reaction? No answer was given.
6. Open discussion:
 - a. Reference was made to the last partnering session (October 2002), and basically EJS was given the opportunity to set their own schedule. The milestones that were given by EJS have not been met.
 - b. EJS referenced cash flow problem; not getting March requisition monies and not getting April requisition monies and structural steel delays as major causes of scheduling problems.
 - c. It was noted that required Release of Liens were not submitted and the pencil requisition for March was not provided to Dore and Whittier for review until 7 April 2003.
 - d. EJS questioned procedure of requiring liens. Owner stated it was a contract requirement.
 - e. It was noted that scheduling problems and paying of subcontractors and vendors has been an issue long before this March/April 2003 requisition.
 - f. EJS noted concern of some subcontractors for payment was unrelated to this project.

Status and Progress of Construction Meeting held in High School Library
Held on 21 May 2003

7. EJS's attorney asked: what are the issues? Owner noted the letter of 23 April defined Owner's concerns. It was decided to review the letter of 23 April 2003, item by item (10 items) and to identify if item is basically a scheduling issue or a funding issue.

Item (1) Draw Down Schedule: Draw Down Schedule and Construction Schedule are being worked on. Both will be submitted with the next Application for Payment. This item is a scheduling item and will require time to update. EJS noted that the Substantial Completion date can be met. Meeting requirements will be difficult, but November is accurate. EJS further noted that cash flow is the major problem, however hopefully a solution is at hand.

Item (2) Staffing: EJS does not feel there is or has been a staffing problem. Owner noted that by using the average of requisition amounts paid that all indications are that staffing for this project is low. EJS noted staffing will increase dramatically once the structural steel phase is completed. Also, EJS noted a majority of materials are on site and ready to be installed. It was noted this is a funding issue as the cash flow problem has directly affected staffing.

Item (3): EJS is reviewing the proposal request log and PR's issued and related CCD's. EJS noted they do not agree with the procedure of how PR's and CCD's were handled even if it is part of the contract. Owner noted "...as per contract we have the right..." EJS noted: "...will be responding in detail in a couple of weeks..." Kemper Surety requested info. in relation to Proposal Request, CCD and timeline.

Item (4): Concern for flow of information from EJS to the subcontractors: EJS has reviewed and forwarded all information from the Architect to the subcontractors. Some replies have been received and EJS is waiting for all subcontractor replies before reviewing with the Architect.

Item (5) Concern for subcontractor payment of funds: Greenwood Roofing was discussed and how they are expected back on site once they have been paid. EJS is waiting for their return. This is a funding issue.

Item (6): Scheduling item was addressed previously. See Item (1) above.

Item (7): Note EJS will have new project manager at job meetings and this will be his only project. EJS noted this item is a past issue and is now resolved. This is a staffing issue.

Item (8): Concern for the past condition of the Application for Payments appears to have been corrected with the new project manager and evidenced by the April requisition application submitted.

Item (9): EJS noted that the issue with payment of benefits for employees on site has been cleared up.

**Status and Progress of Construction Meeting held in High School Library
Held on 21 May 2003**

- Item (10) Project Schedule and Completion:** Concern expressed for latest schedule submitted by EJS and inadequately of schedule in sequencing of work, milestones not met and scheduling window installation before walls are up; painting walls before they are installed etc. EJS noted to refer back to Item (1).
8. Kemper Surety requested copies of direct payment claims and claims of subcontractors and vendors who say they have not been paid. Owner will provide.
9. Discussion on project time frame and recovery; EJS noted the following:
- a. Structural steel erection set project back.
 - b. Hard winter and wet spring set project back.
 - c. EJS realizes they have a lot of work to do.
 - d. Structural steel issue is behind them now.
 - e. Roofer getting back on site is critical.
 - f. As noted previously, a lot of material is on site ready to be installed.
10. EJS repeated that their major problem right now is cash flow. Kemper Surety noted that they will review with EJS the status and condition of this project, and they realize their assistance will be required. What is required will be determined by Surety with EJS. Surety will keep Owner informed of the situation.
11. Owner expressed the following concerns:
- a. Anticipate late completion of this project.
 - b. Continued inaccurate schedule with unrealistic milestones and less than honest information.
 - c. November completion does not seem realistic.
 - d. Continued promises with no on site construction results.
12. Owner requested that EJS provide and document a real schedule.
13. EJS noted that the new project manager, Matt Daly, will be full time on this project and that North Brookfield is his only project.
14. Owner asked what involvement the Surety would have in this project. Surety noted that that is yet to be determined and will be after review with EJS.
15. Owner asked what plans Surety had if EJS fell apart and/or can't right the ship? Kemper Surety does not plan or foresee that as a possibility at this time. Up to now the Surety has seen this as a "quiet job". Surety did note however that this project "...should have come to my attention and didn't."

**Status and Progress of Construction Meeting held in High School Library
Held on 21 May 2003**

16. Owner requested information on the reporting and monitoring procedures, specifically in reference to this job and EJS. Kemper Surety noted the following:
 - a. Sureties are financial in nature and hire consultants to review actual construction projects.
 - b. Sureties do not monitor construction schedules.
 - c. Sureties normally wait for their clients and/or Owners to notify them of concerns before they react.
 - d. This project is now "beeping on Kemper's radar".
17. It was noted that this project is frustrating to the Owner and Design Team especially as it related to EJS meeting schedules and deadlines. Surety noted they will provide assistance as needed to EJS, and will expect EJS to follow through.
18. It was verified that there are two substantial completion dates:
 - a. 15 August 2003 for the new building.
 - b. 15 December 2003 for the entire project including demolition of the existing building and related site work.
 - c. It was further noted that liquidated damages are set at \$1000.00 per day. For the building completion and additional \$1,000.00 per day for the site completion.
19. Kemper Surety requested a copy of the contract, special conditions and change orders. Owner will provide through the Architect.
20. EJS request response to their request for winter delay. D&W will verify.

The above is my summation of our meeting. If you have any additions and/or corrections, please contact me for incorporation into these minutes. After 10 days, we will accept these minutes as an accurate summary of our discussion and enter them into the permanent record of the project.

Sincerely,

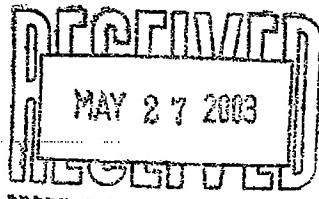
DORE AND WHITTIER, INC.
Project Managers • Architects

Harald Aksdal, AIA
Project Architect

HA:elc

cc: Mr. Ed O'Malley, Principal, North Brookfield Public Schools
Mr. Robert O'Neill, Superintendent of Schools
Mr. Chris Conway, Construction Manager
RJD/JFT/LPD/GOJ/File

EXHIBIT B



05/27/03

1) Hillis Plumbing -

TOTAL PAID TO DATE By OWNER \$ 82,246.55

LESS RETAINAGE 4,110.33

TOTAL DUE Hillis \$ 78,134.02

TOTAL PAID TO DATE \$ 74,770.41

To Hillis By SCIBA

TOTAL PAID TO DATE 3,361.81

To Hillis By OWNER

\$ 78,134.02

2) GRIFFEN ELECTRIC -

This AMOUNT WAS DUE TO FEBRUARY

REQUISITION NOT BEING PAID

3) Greenwood -

TOTAL PAID TO DATE By OWNER \$ 159,579.50

LESS RETAINAGE 7,978.97

TOTAL DUE Greenwood \$ 151,600.53

TOTAL PAID TO DATE By SCIBA \$ 120,250.53 - INCLUDES PAYMENTS TO MATERIAL

TOTAL PAID TO DATE By Owner \$ 31,350.00 JOINT CHECK AGREEMENT

Lien Releases Required for March 03

05500 United Steel 11,544.00 - 5% = 10,964.80

07500 Greenwood 111,579.50 - 5% = 106,000.50

15400 Millis 20,168.45 - 5% = 19,080.03

16000 Griffin 10,875.00

Millis 19,080.30

- 6,447.83 C.O. TO EJS GAS PIPE TO TRUMP HINTERG
12,632.42

2

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EXHIBIT C

EXHIBIT D

00-404/NBJS

FILE

LPO
*FILE*CHANGE
ORDERNorth Brookfield
Jr./Sr. High School
N. Brookfield, MA 01535

- | | | | |
|-----------------|-------------------------------------|-------------------------------|--------------------------|
| Owner | <input checked="" type="checkbox"/> | Berkshire Design Group | <input type="checkbox"/> |
| Architect | <input checked="" type="checkbox"/> | Engineers Design Group | <input type="checkbox"/> |
| Contractor | <input checked="" type="checkbox"/> | Garcia, Galuska Desousa, Inc. | <input type="checkbox"/> |
| CM | <input checked="" type="checkbox"/> | J. Crissafulli & Associates | <input type="checkbox"/> |
| Bldg. Inspector | <input checked="" type="checkbox"/> | CCR/Pyramid | <input type="checkbox"/> |

Project: North Brookfield Jr./Sr. High School
North Brookfield, MA

Change Order No: 1

Owner: North Brookfield Public School District

Date: 26 June 2002

To: E.J. Sciaba Company, Inc.
18 Wolcott Street
P.O. Box 191
Readville, MA 02137

Architects Project No: 00-404

Contract For: North Brookfield Jr./Sr. High School

Contract Date: 19 April 2002

See attached list of 1 item for a total deduction of (\$20,000.00)

Not valid until signed by both the Owner and Architect.

Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was \$13,222,000.00
 Net change by previously authorized Change Orders \$0.00
 The Contract Sum prior to this Change Order was \$13,222,000.00
 The Contract Sum will be decreased by this Change Order (\$20,000.00)
 The new Contract Sum including this Change Order will be \$13,202,000.00
 The Contract Time will be changed by (0) days
 The Date of Substantial Completion as of the date of this
 Change Order therefore is 17 November 2003

Authorized:

ARCHITECT	CONTRACTOR	OWNER
Dore and Whittier, Inc, 1795 Williston Road South Burlington, VT 05403	E.J. Sciaba Company., Inc. 18 Wolcott Street P.O. Box 191 Readville, MA 02137	North Brookfield Public School District 10 New School Drive N. Brookfield, MA 01535
By <u>A. Whittier</u> Date <u>6/26/02</u>	By <u>John M. F.</u> Date <u>5-13-02</u>	By <u>B. O.</u> Date <u>8-12-02</u>

Certification of Appropriation under M.G.L. c44, s31C: Adequate funding in an amount sufficient to cover the total cost of this change order is available. Name _____
 Title _____
 Date _____

North Brookfield Jr./Sr. High School
Change Order 1 (1 Item)

Dore and Whittier Project No. 00-404
Page 2

CCD/PR/PCO Number	Description	Amount
PR #1	<ol style="list-style-type: none">1. A credit of \$6,000 for the Partnering Session as required by Special Conditions, Item 46 A. These services have been provided and will continue to be provided by the Owner.2. A credit of \$9,000 for Permit Fees including building, electrical and plumbing as required by Supplementary General Conditions – Part I, Section 3.7.1.1. These permits have been provided by the Owner.3. A credit of \$5,000 for laptop computer, software, printer and related equipment as required by Section 01590, 1.04, C, 10. These items were provided by others.	(\$20,000.00)
TOTAL		(\$20,000.00)

**CHANGE
ORDER**

North Brookfield
Jr./Sr. High School
N. Brookfield, MA 01535

Owner	<input checked="" type="checkbox"/>	Berkshire Design Group	<input type="checkbox"/>
Architect	<input checked="" type="checkbox"/>	Engineers Design Group	<input type="checkbox"/>
Contractor	<input checked="" type="checkbox"/>	Garcia, Galuska Desousa, Inc.	<input type="checkbox"/>
CM	<input checked="" type="checkbox"/>	J. Crissafulli & Associates	<input type="checkbox"/>
Bldg. Inspector	<input checked="" type="checkbox"/>	CCR/Pyramid	<input type="checkbox"/>

Project: North Brookfield Jr./Sr. High School
North Brookfield, MA

Change Order No: 2

Owner: North Brookfield Public School District

Date: 11 November 2002

To: E.J. Sciaba Company, Inc.
18 Wolcott Street
P.O. Box 191
Readville, MA 02137

Architects Project No: 00-404

Contract For: North Brookfield Jr./Sr. High School

Contract Date: 19 April 2002

See attached list of 4 items for a total increase of.....\$18,169.13

Not valid until signed by both the Owner and Architect.

Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was	\$13,222,000.00
Net change by previously authorized Change Orders.....	(\$20,000.00)
The Contract Sum prior to this Change Order was	\$13,202,000.00
The Contract Sum will be <u>increased</u> by this Change Order	\$18,169.13
The new Contract Sum including this Change Order will be.....	\$13,220,169.13
The Contract Time will be changed by	(0) days
The Date of Substantial Completion as of the date of this Change Order therefore is.....	17 November 2003

Authorized:

ARCHITECT

CONTRACTOR

OWNER

Dore and Whittier, Inc.,
1795 Williston Road
South Burlington, VT
05403

E.J. Sciaba Company, Inc.
18 Wolcott Street
P.O. Box 191
Readville, MA 02137

North Brookfield Public
School District
10 New School Drive
N. Brookfield, MA 01535

By R.L. Tschirhart
Date 11/15/02

By John M. F.
Date 11-18-02

By Tom Flanagan
Date 11/20/02

Certification of Appropriation under M.G.L. c44, s31C: Adequate funding in an amount sufficient to cover the total cost of this change order is available.

Name Nancy J. Nykjaer
Title Town Accountant
Date 12/5/02

North Brookfield Jr./Sr. High School
Change Order 2 (4 Item)s

Dore and Whittier Project No. 00-404
Page 2

CCD/PR/PCO Number	Description	Amount
PR #2/COP#2	1. 6" waterstops at all cold joints in concrete pours of elevator pit.	\$1,149.56
PR#3/COP#3	2. 4" underground conduits from ceiling space of music room at Line B in new building per Dwg. SKO71902.	\$9,300.28
PR#4/COP#4	3. Change Door hardware sets at Public Corr. Staff Toilet Rooms.	\$654.50
COP#1	4. Ledge Removal from Building Area C footing on Col. Line 19 Prime.	\$7,064.79
TOTAL		\$18,169.13

EXHIBIT E



1795 WILLISTON RD, STE. 200 S. BURLINGTON, VT 05403
Phone (802) 863-1428 Fax (802) 863-6955

1400 HANCOCK STREET, QUINCY, MA 02169
Phone: (617) 471-2897 • Fax: (617) 471-2516

29 WATER STREET NEWBURYPORT, MA 01950
Phone: (978) 499-2999 Fax: (978) 499-2944

MEMORANDUM

DATE: 6 May 2003 **OFFICE:** VT MA

MEMO TO: Mr. Robert O'Neill **COPY:** CMC/LPD/ARR/GOJ/File
Superintendent of Schools

FROM: Harald Aksdal

PROJECT: North Brookfield Jr./Sr. High School

PROJECT NO: 00-404

SUBJECT: Application and Certificate for Payment #12

The amount certified for the Application and Certificate for Payment #12 (February, 2003) has been reduced from the \$293,589.57, as shown on Line 8, Current Payment Due to **\$287,556.28**. This reduction is due to two items:

1. Item 00150 CPM Schedule Updates is changed from \$4,000.00 noted in column E to \$1,000.00 as the schedules for December, January and February, 2003 arrived at D&W at the same time as the March, 2003 CPM Schedule (April 25, 2003). These schedules arrived too late to meet the requirements of the contract documents. We can however certify payment for \$1,000.00 for the March, 2003 schedule update.
2. We once again have incorporated CCD #5, total being a deduction of \$3,349.79, into this application for payment.

Should you have any questions and/or concerns, do not hesitate to contact me.

HA:kne